



ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114

Phone: (501) 682-5001 • Fax: (501) 682-5018

Impact Assessment for SB284 Sponsored by Senator Garner

Subtitle TO CREATE THE OFFENSE OF CAPITAL RAPE.

Impact Summary¹ Cannot be determined. The proposed bill increases the penalty for some courses of conduct that are currently punishable under A.C.A. § 5-14-103, Rape. Data for rape convictions and sentences is not specific as to the circumstances of the offense. For this reason, the impact cannot be determined.

Change from Current Law² Amends various provisions of the Arkansas Code Annotated regarding the rape of a child in certain situations. Please note that while a large number of code provisions are amended by this proposed bill, only those impacting criminal penalties will be analyzed in this impact assessment.

The proposed bill creates A.C.A. § 5-14-114, Capital rape. Under the proposed bill, a person commits Capital rape if:

- (1) he or she engages in sexual intercourse or deviate sexual activity with another person who is less than fourteen (14) years of age and causes or threatens to cause serious physical injury to the other person;
- (2) acting alone or with one (1) or more other persons, the person commits or attempts to commit terrorism, kidnapping, vehicular piracy, robbery, aggravated robbery, residential burglary, commercial burglary, aggravated residential burglary, delivery of a controlled substance, first degree escape, trafficking of persons, or engaging children in sexually explicit conduct, and during the course of or in furtherance of the felony, the person or an accomplice engages in sexual intercourse or deviate sexual activity with another person who is less than fourteen (14) years of age;
- (3) the person enters into an agreement in which, in return for anything of value, he or she engages in sexual intercourse or deviate sexual activity with another person who is less than fourteen (14) years of age;
- (4) while using or threatening to use a deadly weapon, he or she engages in sexual intercourse or deviate sexual activity with another person who is less than fourteen (14) years of age; or
- (5) he or she engages in sexual intercourse or deviate sexual activity with another person who is less than fourteen (14) years of age after having been previously been convicted of rape under A.C.A. § 5-14-103 (a)(3).

Under current law, rape is a Class Y felony, punishable by ten (10) to forty (40) years imprisonment, or life imprisonment. If the victim of the rape is less than fourteen (14) years of age, rape carries a minimum sentence of twenty-five (25) years. Under the proposed bill, Capital rape is punishable by death, life imprisonment without parole, or, if the defendant was younger than eighteen (18) years of age at the time he or she committed the offense, life imprisonment with the possibility of parole after serving a minimum of thirty (30) years imprisonment. Attempt, solicitation, or conspiracy to commit the offense of Capital rape is a Class A felony

¹ This impact assessment was prepared 2/24/2021 8:01 AM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Corrections and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: “minimal” = less than 10 offenders per year will be affected; “medium” = would require budgetary increases for ADC inmate costs; and “major” = would require budgetary increases for ADC inmate costs and construction costs for additional beds

² Standard punishment ranges:

Class Y 10-40 years or life
Class A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors
Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500

under the proposed bill.

The proposed bill also amends provisions of Title 16 of the Arkansas Code to make adult offenders convicted of Capital rape ineligible for parole and amends various provisions regarding capital offenses and violent and sex offense designations to include the newly created offense of Capital rape. Under current law, rape is designated as a sexual and violent offense and is not eligible for parole until the offender has served a minimum of seventy percent (70%) of his or her sentence.

Impact Information The proposed bill increases the penalty for some courses of conduct that are currently punishable under A.C.A. § 5-14-103, Rape. Data for rape convictions and sentences are not specific as to the age of the victim and the circumstances of the offense. For this reason, the impact cannot be determined. The data below is provided for informational purposes only.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning January 1, 2017 and ending December 31, 2019, there were 531 convictions for a violation of A.C.A. § 5-14-103, Rape, a Class Y felony, as currently written. AOC data does not distinguish between the various courses of conduct by which a person can commit the offense of rape.

The Division of Correction reports 1,541 inmates currently serving a term of incarceration for a violation of A.C.A. § 5-14-103, Rape, a Class Y felony, as currently written. 1,501 of these offenders are serving a sentence for which A.C.A. § 5-14-103, Rape, is the most serious offense. The below table sets out the length of sentence for offenders currently serving a sentence for which A.C.A. § 5-14-103, Rape, is the most serious offense.

Length of Sentence	Number of Offenders
Life or Life without Parole	169
≥80 years	57
≥ 60 years but < 80 years	81
≥ 40 years but < 60 years	262
≥ 25 years but < 40 years	541
< 25 years	391